

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

STATE OF ALABAMA, <i>ex rel.</i>)	
D. DAVID PARSONS, as Commissioner)	
of Insurance, and)	
DENISE B. AZAR, as acting Chief of the)	
Receivership Division of the Alabama)	
Department of Insurance,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO. CV 01-5259
)	
SOUTHERN HEALTH SYSTEMS, INC., an)	
Alabama health maintenance organization,)	
)	
Defendant.)	

**ORDER TERMINATING REHABILITATION PROCEEDINGS
AND ORDER OF LIQUIDATION**

This matter came on to be heard on petition filed by Denise B. Azar, as Receiver of Defendant Southern Health Systems, Inc., an Alabama health maintenance organization (Southern Health), for authorization to terminate the rehabilitation proceedings of Southern Health, and for an Order of Liquidation pursuant to Section 27-32-7, *Code of Alabama 1975*. A hearing was held on August 28, 2001. Having considered said petition and the representations and evidence submitted in open court, the Court finds that it is in the best interest of Defendant Southern Health, its enrollees and creditors, that rehabilitation proceedings be terminated and that Defendant Southern Health be placed in liquidation upon the terms and conditions contained herein.

NOW THEREFORE, it is ORDERED, ADJUDGED and DECREED as follows:

1. The Receiver's Petition to Terminate the Rehabilitation Proceedings and for Order of Liquidation for Defendant Southern Health is hereby GRANTED.

2. Defendant Southern Health, as of June 30, 2001, was insolvent. Efforts to rehabilitate Defendant Southern Health have not succeeded, and Defendant Southern Health is in such financial condition that the continuation of its rehabilitation, and the further transaction of its business thereunder, would be hazardous to its enrollees, creditors, and the public.

3. As Receiver, Denise B. Azar, is hereby directed to liquidate Defendant Southern Health in accordance with Sections 27-32-12, *et. seq.*, *Code of Alabama 1975*, and to take such action as the nature of the cause and the interest of the enrollees, creditors and the public may require. As Receiver, Denise B. Azar is further authorized to employ such legal counsel, accountants, appraisers, experts, clerks and assistants of her own choosing pursuant to Section 27-32-15(f), *Code of Alabama 1975*.

4. As Receiver, Denise B. Azar, is further vested with title to all property, assets, contracts and rights of action of Defendant Southern Health, wherever located, whether tangible or intangible, including, without limitation, all stock, equity securities, partnership interests or other ownership interests of any kind in any other corporation, partnership (limited or otherwise), trust or other entity which is beneficially or legally owned or held by or attributable to Defendant Southern Health, as of the date of this Order.

5. As Receiver, Denise B. Azar, is further authorized to institute and prosecute, in the name of Defendant Southern Health or in her own name as Receiver, any and all suits or other legal proceedings, defend suits in which Defendant Southern Health is a party, in this State or elsewhere, whether or not such suits are pending as of the date of this Order; abandon the prosecution or defense of such suits, legal proceedings, or claims where to do so would be in the

best interest of the enrollees and creditors of Defendant Southern Health; prosecute any action which may exist on behalf of the enrollees and creditors of Defendant Southern Health against any person, controlling parties of Defendant Southern Health, partnership, corporation or other entity, or any other person; and apply, on her own behalf, to have any default or default judgment set aside and to defend on the merits and assert all defenses available to Defendant Southern Health as against third parties.

6. All directors, officers and managers of Defendant Southern Health, if any, are hereby discharged and removed, and all authority of such directors, officers and managers is revoked, except as such persons may be appointed or reappointed by the Receiver, in her sole discretion, after entry of this Order.

7 All banks, brokerage houses, or other companies or persons having in their possession assets which are, or may be the property of Defendant Southern Health, are hereby ordered to deliver the possession of the same immediately to the Receiver, and are further ordered not to disburse the same without the written consent of, or unless directed in writing by, the Receiver. Such persons and entities, and all other persons and entities, are further enjoined from disposing of or destroying any records pertaining to any business transactions between Defendant Southern Health and banks, brokerage houses or other persons or companies having done business with Defendant Southern Health, or having in their possession assets which are or were the property of Defendant Southern Health.

8 All agents, brokers or other persons having sold certificates of health coverage and/or collected premiums on behalf of Defendant Southern Health, shall account for, and to the extent due and owing, shall pay all unearned premiums and commissions owed to Defendant Southern Health as a result of policies canceled by this Order, or in the normal course of

business, directly to the Receiver within thirty (30) days after demand by the Receiver, or appear before this Court to show good cause, if any they may have, as to why they should not be required to account to the Receiver. All agents, brokers or other persons are enjoined and restrained from returning any unearned premiums, or any money in their possession collected for premiums, to enrollees or others. The Receiver shall serve a copy of this Order on all agents, brokers or others which shall constitute notice of its injunctive provisions

9 All attorneys employed by Defendant Southern Health as of this date shall, within thirty (30) days after notice of this Order, report to the Receiver with respect to the name, company claim number and status of each file they are handling on behalf of Defendant Southern Health. Said report shall also include an accounting of any funds received from or on behalf of Defendant Southern Health. All attorneys described herein are hereby discharged as of the date of this Order unless their services are retained by the Receiver after entry of this Order.

10 Each data processing service or other entity that has custody or control of any data processing information and records, including but not limited to, source documents, data processing cards, input tapes, all types of storage information, master tapes or any other recorded information relating to Defendant Southern Health shall transfer custody and control of such records to the Receiver upon demand.

All contracts, treaties and agreements or reinsurance wherein Defendant Southern Health was the assuming or retrocessional reinsurer, are canceled, on a "cut-off" basis, such cancellations to be effective upon the entry of this Order. All other treaties, contracts and agreements of reinsurance, wherein Defendant Southern Health is the ceding company, shall remain in full force and effect pending a determination and recommendation by the Receiver as to when, and upon what terms cancellation is appropriate.

12. Except for certificates of health insurance coverage, all contracts, executory or otherwise, to which Defendant Southern Health was a party, including all agents' contracts, general agents' contracts, brokers' contracts, retirement and "golden parachute" agreements, are hereby canceled unless specifically adopted by the Receiver within thirty (30) days after the date of this Order. Any cancellation under this provision shall not be treated as an anticipatory breach of such contracts. All other contracts, policies and direct insurance, with obligations that have been assumed by respective state guaranty funds, shall remain in full force and effect. Persons and entities suffering real damages or loss as a result of said contract cancellations shall retain the right to file claim(s) with the Receiver which claim(s) shall be, if proven, allowed, allowed in part or disallowed in accordance with Alabama's Liquidation Act, Sections 27-32-1, *et. seq.*, *Code of Alabama 1975*, the Uniform Insurers Liquidation Act, Sections 27-32-22, *et. seq.*, *Code of Alabama 1975*, and other applicable laws of the State of Alabama.

13. All evidences of coverage issued by Defendant Southern Health are hereby canceled effective September 30, 2001

14. The Receiver shall give enrollees notice by first-class mail that their coverage with Defendant Southern Health will be canceled on the aforementioned date. Said notice may be to the enrollee at his/her last known address, where available, but if sufficient information for notification by first-class mail is not available, the Receiver shall give notice by publication in at least two newspapers of general circulation in this state covering those counties where Defendant Southern Health is currently licensed to transact business, or by any other method reasonably calculated to give actual notice to the enrollees of Defendant Southern Health.

15. The Receiver shall give notice by first-class mail to all persons (including, but not limited to, individuals, aggregations of individuals, partnerships, corporations, associations,

estates, trusts, and governmental units, to include all entities not named), having claims against Defendant Southern Health, and shall advise such persons to present and file with the Receiver proper proofs of claim, or where applicable to file said claims with the Alabama Health Maintenance Organization Guaranty Association.

16. The deadline for filing such claims against Defendant Southern Health shall be 5:00 p.m., Central Standard Time, on February 28, 2002. The Receiver's notice shall specify the deadline for filing claims and further direct all claimants to file their claims with the Receiver at the address designated in such notice. Said notice shall be made by first-class mail to all claimants at their last known address, where available, but if sufficient information for notification by first-class mail is not available, the Receiver shall give notice by publication in at least two newspapers of general circulation in this state covering those counties where Defendant Southern Health is currently licensed to transact business, or by any other method reasonably calculated to give actual notice to the claimants of Defendant Southern Health.

17. The Receiver shall have drafted and printed appropriate proof of claim forms to be used by enrollees and creditors filing claims against Defendant Southern Health.

18. The Receiver shall be and is hereby authorized to pay all routine administrative expenses incurred by the Receiver without prior approval of the Court provided no one expenditure exceeds the sum of \$10,000. Specific accounting and certification of these expenses as reasonable and necessary will be made to the Court

19. The Receiver is further granted the authority to dissolve the corporate existence of Defendant Southern Health in accordance with the provisions of Section 27-32-12(b), *Code of Alabama 1975*, at such time as she deems appropriate.

20. The Receiver will make a written report to the Court by November 30, 2001 documenting the progress being made in carrying out the mandates of this Order, and any recommendations which the Receiver feels are in the best interest of the enrollees and creditors of Defendant Southern Health.

21 The injunctive provisions contained in this Court's Consent Order of Rehabilitation, Temporary Restraining Order, Preliminary Injunction and Other Relief are continued in effect until further order of this Court, including paragraph 4(D) of said Order which provides that all persons are restrained and enjoined from:

Commencing or further prosecuting any action in law or equity or administrative proceedings, except in this court; obtaining any preferences, judgments, attachments, or other liens against any of the property, personal or real, of Defendant Southern Health; commencing or continuing any action in the nature of an attachment, garnishment or execution against any of the property, personal or real, of Defendant Southern Health; making any levy, garnishment or execution against any of the property, personal or real, of Defendant Southern Health or its assets or any part thereof except in this Court.

22. The Court shall retain exclusive jurisdiction over this matter for all purposes necessary to effectuate and enforce this Order.

ENTERED this 22 day of August, 2001


Circuit Judge

COUNSEL OF RECORD FOR PLAINTIFFS:

Michael A. Bownes, Esquire, BOW-014
Elizabeth Bookwalter, Esquire, BOO-011
Ralph R. Norman, III, Esquire, NOR 011
Alabama Department of Insurance
Post Office Box 303351
Montgomery, Alabama 36130-3351
Telephone: (334) 241-4116
Facsimile: (334) 241-4192

COUNSEL OF RECORD FOR DEFENDANT:

William Anthony Davis, III, Esquire DAV-022
Philip G. Piggott, Esquire PIG-002
Starnes & Atchison LLP
Post Office Box 598512
Birmingham, Alabama 35259-8512